

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

City of Chicago,

Plaintiff,

v.

DoorDash, Inc. and Caviar, LLC,

Defendants.

Civil Action No. 1:21-cv-05162

Hon. Jeremy C. Daniel
Magistrate Judge Jeffrey T. Gilbert

JOINT STATUS REPORT

The Court’s Memorandum Opinion and Order regarding Plaintiff City of Chicago’s (the “City”) Motion for Protective Order (“Order”) dated August 23, 2023 directed the parties to file a joint status report “that provides an update on any continuing meet and confer efforts by the parties concerning those matters the Court has flagged that might benefit from such conferral” (Dkt. 206 at 53). The parties hereby file this Joint Status Report concerning the parties’ negotiations regarding the discovery requests affected by the Order.

DoorDash: In its Order, the Court indicated that certain of the discovery requests propounded by Defendants DoorDash, Inc. and Caviar, LLC (“Defendants” or “DoorDash”) regarding the City’s investigation of DoorDash and the Third Party Food Delivery Service Rules were presently overbroad, and encouraged the parties to negotiate regarding the appropriate scope pursuant to L.R. 37-2. Dkt. 206 at 50-51.

The parties met and conferred on September 11, 2023 regarding the discovery requests addressed in the Order. On September 18, 2023, DoorDash sent a letter to the City, which (1) included new requests for production (“RFPs”) requesting targeted discovery into the City’s

and BACP's investigation of DoorDash (but not other third party delivery platforms) to replace certain requests that the Court has deemed overbroad (specifically, RFP Nos. 6, 8, 11, 50, 54, and 65, and Interrogatory No. 2), (2) proposed search criteria and narrowed formulations to "right size" RFP Nos. 41, 42, and 43, and (3) asked the City to produce a standard privilege log in conjunction with documents responsive to these narrowed requests. On September 25, 2023, the parties met and conferred to discuss those requests.

At present, the parties have agreed to search criteria for RFP No. 42. In response to that RFP, the City has agreed "to conduct a reasonable search for documents related to BACP's investigation into Defendants' compliance with the Third-Party Food Delivery Services Rules, including communications with Consumer Reports." The City has also proposed custodians, date ranges, and search terms, to which the parties are agreed:

- Custodians: Tamara Starks; Max Budovitch; Shannon Trotter; Matthew Allee; David Smith; Thomas Dombai; Alexis Long; Rosa Escareño; and Isaac Reichman
- Search terms: "DoorDash" OR "Door Dash" OR "Caviar"
- Date range: April 1, 2020 – September 30, 2020

With respect to the other discovery requests, DoorDash is awaiting a written response to its September 18 letter and definitive positions from the City regarding its narrowing proposals and privilege log position.

The City: In response to questions the Court raised in its August 23 order regarding what documents the City has produced or agreed to produce in response to certain requests at issue in the City's motion for a protective order, the City provides the following information:

RFP Nos. 6, 11, 41 (the City's investigation): The City has produced all non-privileged documents on which the Complaint was based, including news reports, information from Defendants' platforms, surveys, academic studies, market data, documentation of test DoorDash

orders by City investigators, the City's email communications with restaurants, and complaints about DoorDash submitted to the City. The City has also produced Commissioner Escareño's request that Corporation Counsel file this action. Dkt. 206 at 46-47.

RFP No. 8 (communications with third parties about DoorDash practices): The City has produced communications between the City and third parties including other law enforcement agencies, Chicago restaurants, Consumer Reports, Chicago Checkbook, the Illinois Restaurant Association, and the National Restaurant Association. The City has objected to producing communications not related to the City's investigation of DoorDash.

RFP Nos. 42, 65 (Chicago's Third Party Food Delivery Service Rules): The City agreed to produce documents relating to BACP's inquiry into DoorDash's compliance with the Third Party Food Delivery Service Rules. The City produced these documents on September 1, 2023.

Interrogatory No. 2 (persons with knowledge): The City has answered this interrogatory with a 15-page chart that includes the names, contact information, and subjects of knowledge of 66 individuals, including Law Department personnel and outside counsel, likely to have information relevant to the parties' claims and defenses.

Privilege log: The City will provide a privilege log reflecting attorney notes of the investigatory interviews conducted by the City with restaurant owners or managers. The City is continuing to meet and confer with DoorDash on other privilege log questions.

With respect to the status of continuing meet-and-confer efforts concerning the matters raised in the Court's August 23 order, the parties conferred preliminarily on September 11, 2023. On September 18, 2023, DoorDash sent the City a letter that proposes replacing six RFPs identified in the Court's order (RFP Nos. 6, 8, 11, 50, 54, and 65) and Interrogatory No. 2 with 16 new RFPs. DoorDash's September 18 letter also proposes narrowing RFP Nos. 41 and 43, and accepts in

satisfaction of RFP No. 42 a search that the City agreed to on June 8 and August 7, 2023 (and pursuant to which the City produced documents on September 1, 2023). The parties are in the process of meeting and conferring regarding DoorDash's proposal.

DATED: September 27, 2023

Respectfully submitted,

**CITY OF CHICAGO DEP'T OF LAW,
AFFIRMATIVE LITIGATION
DIVISION**

COHEN MILSTEIN SELLERS & TOLL PLLC

By: /s/ Stephen J. Kane

Stephen J. Kane
Peter H. Cavanaugh
121 N. LaSalle St.
Room 600
Chicago, IL 60602
Phone: (312) 744-6934
stephen.kane@cityofchicago.org
peter.cavanaugh@cityofchicago.org

By: /s/ Brian E. Bowcut

Brian E. Bowcut (pro hac vice)
Betsy A. Miller (pro hac vice)
Peter S. Ketcham-Colwill (pro hac vice)
Lisa M. Ebersole (pro hac vice)
1100 New York Avenue, NW, Suite 500
Washington, D.C. 20005
Phone: (202) 408-4600
bbowcut@cohenmilstein.com
bmiller@cohenmilstein.com
pketcham-colwill@cohenmilstein.com
lebersole@cohenmilstein.com

Attorneys for Plaintiff City of Chicago

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Joshua S. Lipshutz

Joshua S. Lipshutz (pro hac vice)

1050 Connecticut Avenue NW

Washington, DC 20036

Phone: (202) 955-8500

jlipshutz@gibsondunn.com

Michael Holecek (pro hac vice)

Cynthia Chen McTernan (pro hac vice)

333 S. Grand Avenue

Los Angeles, CA 90071

Phone: (213) 229-7000

mholecek@gibsondunn.com

cmcternan@gibsondunn.com

FORDE & O'MEARA LLP

By: /s/ Michael K. Forde

Michael K. Forde

Brian P. O'Meara

191 North Wacker Drive

31st Floor

Chicago, Illinois 60606

Phone: (312) 641-1441

mforde@fordellp.com

bomeara@fordellp.com

**RILEY SAFER HOLMES
& CANCELIA LLP**

By: /s/ Patricia Brown Holmes

Patricia Brown Holmes

Sarah E. Finch

70 W. Madison Street

Suite 2900

Chicago, IL 60602

Phone: (312) 471-8700

pholmes@rshc-law.com

sfinch@rshc law.com

Attorneys for Defendants DoorDash, Inc. and Caviar,
LLC